

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r” and 16.40, the Iowa Finance Authority hereby amends Chapter 42, “Emergency Shelter Grants Program,” Iowa Administrative Code.

These amendments revise rules relating to the administration of the Emergency Shelter Grants program (renamed the “Emergency Solutions Grant” program by these amendments) to conform the rules to recent changes in federal regulations.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 18, 2012, as **ARC 0095C**. The Authority received public comment on the proposed amendments but made no changes to the amendments based on those comments.

The Iowa Finance Authority adopted these amendments on June 6, 2012.

After analysis and review of this rule making, there should be no adverse impact on jobs. Although homeless shelters and nonprofits may now be required to match the funds they receive, these organizations will receive a credit for all employee salaries. Therefore, this rule making encourages the hiring of full-time employees.

These amendments are intended to implement Iowa Code section 16.5(1)“m” and 24 CFR Parts 91, 576, 582, and 583.

These amendments will become effective on August 1, 2012.

The following amendments are adopted.

ITEM 1. Amend **265—Chapter 42**, title, as follows:

~~EMERGENCY SHELTER GRANTS~~ SOLUTIONS GRANT PROGRAM

ITEM 2. Amend rule 265—42.1(16) as follows:

265—42.1(16) Purpose. The ~~emergency shelter grants program~~ Emergency Solutions Grant Program is designed to improve the quality of services to the homeless and to prevent individuals and families from becoming homeless. The program will make available needed services and help meet the costs of providing essential social services so that homeless individuals and families have access not only to safe and sanitary shelter but also to the supportive services and other types of assistance the individuals and families need to improve their situations.

ITEM 3. Amend rule **265—42.2(16)**, definitions of “Emergency shelter,” “ESG program” and “Homeless,” as follows:

“Emergency shelter” means a homeless shelter with overnight sleeping accommodations, the primary purpose of which is to provide temporary shelter for homeless persons, in accordance with the definition at 24 CFR Part 576.

“ESG program” or *“ESGP”* means the Emergency ~~Shelter Grants~~ Solutions Grant Program created pursuant to Title 42 of the U.S. Code (42 U.S.C. Section 11375) as well as parts of Title 24 of the Code of Federal Regulations (24 CFR Part 576).

“Homeless” or *“homeless individual”* shall have the meaning set forth in ~~42 U.S.C. Section 11302~~ 24 CFR Part 91.

ITEM 4. Rescind the definition of “HUD ESG Desk Guide” in rule **265—42.2(16)**.

ITEM 5. Amend rule 265—42.3(16) as follows:

265—42.3(16) Eligible applicants. City governments, county governments, and private, nonprofit organizations are eligible applicants under the ESG program. City or county governments may apply on behalf of a nonprofit service provider within their jurisdictions when the nonprofit service provider serves homeless and near-homeless clients by providing overnight shelter, ~~meals, clothing, transportation, counseling, child care, legal services, medical services, transitional housing services,~~ and other services eligible under the ESG program as determined by HUD.

ITEM 6. Amend rule 265—42.4(16) as follows:

265—42.4(16) Eligible activities. Eligible activities are based on guidelines established by the Stewart B. McKinney Homeless Assistance Act of 1987 and are further defined in 24 CFR Part 576 and the HUD Desk Guide. Activities assisted by this program may include only the following:

42.4(1) *Construction Street outreach.* ~~Rehabilitation, renovation, or conversion of buildings for use in the provision of services for the homeless.~~ Provision of essential services necessary to reach out to unsheltered homeless people; to connect them with emergency shelter, housing, or critical services; and to provide urgent, non-facility-based care to unsheltered homeless people who are unwilling or unable to access emergency shelter, housing, or an appropriate health facility.

42.4(2) *Essential services — new or increased level of services* ~~*Emergency shelter.*~~ Provision of essential services if the service is a new service or quantifiable increase in the level of service. ESG program funds may not be used to replace existing funding sources for services; however, once a new or increased level of service meets the standards, ESG program funds may be used to continue funding the service in subsequent years. No more than 30 percent of the IFA annual grant amount may be used for this purpose. Provision of essential services to homeless families and individuals in emergency shelters and the operation of emergency shelters.

42.4(3) *Operating costs.* ~~Payment of emergency shelter and transitional housing operating costs including shelter maintenance, operations, rent, repairs, security, fuel, equipment, insurance, utilities, food and furnishings. Staff salaries, including fringe benefits, paid under the operating cost category are limited to 10 percent of the grant amount. Maintenance and security costs are not subject to the 10 percent standard.~~

42.4(4) ~~42.4(3)~~ *Prevention of homelessness.* ~~Payment for eligible activities that assist in the prevention of homelessness. Grants may be made for homeless prevention as long as the total amount of such grants does not exceed 30 percent of the total emergency shelter grants program allocation. Examples of eligible activities include, but are not limited to, short-term subsidies to help defray rent and utility arrearages for families faced with eviction or termination of utility services; security deposits or first month's rent to enable a family to acquire its own rental unit; programs to provide mediation services for landlord-tenant disputes; or programs to provide legal representation to indigent tenants in eviction proceedings. Other possible types of homeless prevention efforts include making needed payments to prevent a home from falling into foreclosure. The provision of housing relocation and stabilization services and short- or medium-term rental assistance necessary to prevent an individual or family from moving into an emergency shelter or another place described in paragraph (1) of the definition of "homeless" in 24 CFR Part 576.2.~~

42.4(4) *Rapid re-housing.* The provision of housing relocation and stabilization services and short- or medium-term rental assistance necessary to help a homeless individual or family move as quickly as possible into permanent housing and achieve stability in that housing.

42.4(5) *Administrative costs.* A recipient may use a portion of a grant received for administrative purposes as determined by IFA. The maximum allowed for these administrative costs shall be 5 percent of the state ESGP allocation. IFA reserves the authority for distribution of administrative funds.

42.4(6) *Homeless Management Information System (HMIS) projects.* IFA may award grants for HMIS implementation to support data collection, reporting, and analysis as long as the total amount of such grants does not exceed 10 percent of the total emergency shelter grants program Emergency Solutions Grant Program allocation. Eligible costs may include equipment, software, services, personnel, space, and operations for HMIS activities. In the case of parties to a supportive housing grant agreement or renewal grant agreement with the United States Department of Housing and Urban Development for HMIS implementation who are in need of the required cash match, IFA may in its discretion award such a grant, subject to the terms of this subrule, without regard to the application and review provisions of rules 265—42.6(16) and 265—42.7(16). Subrecipients of grants in support of other eligible activities listed in subrules 42.4(1) to 42.4(4) may also use a portion of such grants to support data collection and reporting using the HMIS or comparable database.

ITEM 7. Amend rule 265—42.6(16) as follows:

265—42.6(16) Application procedures. IFA will issue requests for proposals from eligible applicants as often as the state expects funding from HUD. Requests for proposals ~~will~~ may combine the ESG program with the SAF program. The proposals must be submitted on the forms or on-line system prescribed by IFA and must, at a minimum, include the amount of funds requested, a description of the need for the funds, documentation of other available funding sources, the source of required local match, and the estimated number of persons to be served by the applicant. Maximum and minimum grant awards will be established by IFA for each competition.

ITEM 8. Amend rule 265—42.8(16) as follows:

265—42.8(16) Matching requirement. Each subrecipient of ESG program funds must match the grant amount with an equal amount. In calculating the amount of matching funds, the following may be included: ~~the value of any donated material or building used in the project, the value of any lease on a building used in the project, any salary paid to staff of the subrecipient or to any state subrecipient in carrying out the ESG program, and the time and services contributed by volunteers at the rate of \$5 per hour.~~ For purposes of this rule, IFA will determine the value of any donated material or building, or any lease, using any method reasonably calculated to establish fair market value. cash contributions expended for allowable costs of the subrecipient for the ESG program or noncash contributions, including the value of any real property, equipment, goods, or services contributed to the subrecipient's ESG program provided that, if the subrecipient had to pay for them with grant funds, the costs would have been allowable. IFA may allow an exemption of matching funds up to a maximum of \$100,000 of the state allocation received from HUD for the subrecipients least capable of providing such matching amounts. The subrecipient must document its need to participate in this exemption from matching requirements and must receive prior approval from IFA before the exemption will be effective.

ITEM 9. Amend subrule 42.10(3) as follows:

42.10(3) Participation by homeless individuals and families. To the maximum extent possible, the subrecipient must involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted with ESG funds, in providing services assisted with ESG funds, and in providing services for occupants of facilities assisted with ESG funds.

~~a. A recipient or subrecipient of ESG program funds must certify that it involves, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating assisted facilities and in providing services.~~

~~b. Local government recipients or subrecipients or qualified recipients or subrecipients must have the participation of at least one homeless person or formerly homeless person on their board of directors or equivalent policymaking entity. The Secretary of HUD may issue a waiver to the recipient or subrecipient if the recipient or subrecipient agrees to otherwise consult with homeless or formerly homeless individuals when making policy decisions.~~

ITEM 10. Adopt the following new subrules 42.10(7) and 42.10(8):

42.10(7) Coordination with other homeless services. Subrecipients must coordinate and integrate, to the maximum extent practicable, grant-funded activities with other homeless service programs in the community.

42.10(8) Access to mainstream services and resources. Subrecipients must ensure that all program participants are assisted, to the maximum extent practicable, in obtaining mainstream services and financial assistance, including housing, health, social services, employment, education, and youth programs for which participants are eligible.

ITEM 11. Amend rule 265—42.11(16), introductory paragraph, as follows:

265—42.11(16) Compliance with applicable federal and state laws and regulations. All recipients and subrecipients shall comply with the Iowa Code governing activities performed under this program

and with all applicable provisions of the Stewart B. McKinney Homeless Assistance Act of 1987 and its implementing regulations, as well as the revising regulations of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act), as defined by 24 CFR Part 576. Use of ESG program funds must comply with the following additional requirements.

ITEM 12. Adopt the following new paragraphs **42.11(1)“e”** to **“i”**:

e. The Drug-Free Workplace Act of 1988 and HUD’s implementing regulations at 24 CFR Part 24.

f. Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

g. Contracting requirements at 24 CFR Part 24 that prohibit the use of federally disbarred, suspended, or ineligible contractors for expenses related to the ESG program.

h. Job training and employment for low-income residents requirements of Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, and implementing regulations at 24 CFR Part 135, except that homeless individuals have priority over other Section 3 residents in accordance with 24 CFR Part 576.405(c).

i. The requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR Part 35, Subparts A, B, H, J, K, M, and R, which apply to all shelters assisted under the ESG program and all housing occupied by program participants.

ITEM 13. Amend paragraph **42.12(2)“a”** as follows:

a. Records for any assisted activity shall be retained for ~~three~~ five years after the end of the grant period and, if applicable, until audit procedures are completed and accepted by IFA.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/27/12.